

**BEFORE THE  
PHYSICIAN ASSISTANT COMMITTEE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation  
Against:**

**JAMES DEAN FLAGER, P.A.**

**Case No: 1E-2005-170744**

**Physician Assistant  
Certificate no. PA 13738**

**Respondent.**

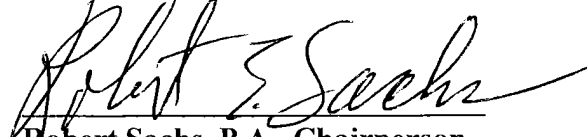
**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision and Order by the Physician Assistant Committee, Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on July 26, 2006

**ORDERED** June 26, 2006

**PHYSICIAN ASSISTANT COMMITTEE**

  
Robert Sachs, P.A., Chairperson

1 BILL LOCKYER, Attorney General  
of the State of California  
2 SANFORD H. FELDMAN, State Bar No. 47775  
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8 Attorneys for Complainant

9 **BEFORE THE**  
**PHYSICIAN ASSISTANT COMMITTEE**  
**MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 1E-2005-170744

13 JAMES FLAGER, P.A.  
6315 Vineyard Ave.  
14 Alta Loma, CA 91701

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15 Physician Assistant License No. PA 13738  
16

17 Respondent.

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
19 above-entitled proceedings that the following matters are true:

20 PARTIES

21 1. Richard L. Wallinder, Jr. (Complainant) is the Executive Officer of the  
22 Physician Assistant Committee. He brought this action solely in his official capacity and in no  
23 other. He is represented in this matter by Bill Lockyer, Attorney General of the State of  
24 California, by Sanford H. Feldman, Deputy Attorney General.

25 2. Respondent JAMES FLAGER, P.A. is representing himself in this  
26 proceeding and has chosen not to exercise his right to be represented by counsel.

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3. On or about January 25, 1996, the Physician Assistant Committee issued Physician Assistant License No. PA 13738 to JAMES FLAGER, P.A. (Respondent). The License was in full force and effect at all times relevant to the charges brought in Accusation No. 1E-2005-170744 and will expire on October 31, 2007, unless renewed.

## JURISDICTION

4. Accusation No. 1E-2005-170744 was filed before the Physician Assistant Committee (Committee) for the Medical Board of California, Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent. A copy of Accusation No. 1E-2005-170744 is attached as Exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 1E-2005-170744. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 1E-2005-170744.

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9. Respondent agrees that his Physician Assistant License is subject to discipline and he agrees to be bound by the Committee's imposition of discipline as set forth in the Disciplinary Order below.

## CONTINGENCY

10. This stipulation shall be subject to approval by the Physician Assistant Committee. Respondent understands and agrees that counsel for Complainant and the staff of the Physician Assistant Committee may communicate directly with the Committee regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Committee considers and acts upon it. If the Committee fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Committee shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Committee may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician Assistant License No. PA 13738 issued to Respondent JAMES FLAGER, P.A. is revoked. However, the revocation is stayed and Respondent is placed on probation for seven (7) years on the following terms and conditions.

1. DRUGS - ABSTAIN FROM USE/EXEMPTION FOR PERSONAL USE

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined by Section 4211 of the Business and Professions Code, or any drugs requiring a prescription.

1 Orders forbidding respondent from personal use or possession of controlled  
2 substances or dangerous drugs do not apply to medications lawfully prescribed to respondent for  
3 a bona fide illness or condition by another practitioner.

4 2. ALCOHOL - ABSTAIN FROM USE Respondent shall abstain  
5 completely from the use of alcohol-containing products and beverages.

6 3. BIOLOGICAL FLUID TESTING Respondent shall immediately submit  
7 to biological fluid testing upon the request of the Physician Assistant Committee or its designee.  
8 The cost of biological fluid testing shall be borne by respondent.

9 4. DIVERSION PROGRAM Within 30 days of the effective date of this  
10 decision, respondent shall enroll and participate in the Physician Assistant Committee's  
11 Diversion Program until the committee or its designee determines that further treatment and  
12 rehabilitation is no longer necessary. Respondent shall participate in the program at his own  
13 expense. Quitting the program without permission or being expelled for cause shall constitute a  
14 violation of probation by respondent.

15 5. ETHICS COURSE Within 90 days of the effective date of this decision,  
16 respondent shall submit to the committee or its designee for its prior approval a course in ethics,  
17 which respondent shall successfully complete during the first year of probation. Respondent  
18 shall participate in an ethics course at his own expense.

19 6. MONITORING/SUPERVISION Within 30 days of the effective date of  
20 this decision, respondent shall submit to the committee or its designee for its prior approval a  
21 plan of practice in which respondent's practice shall be monitored by a supervising physician  
22 responsible for patients treated by the physician assistant.

23 If the supervising physician/monitor resigns or is no longer available, respondent  
24 shall, within 15 days, move to have a new supervising physician/monitor appointed, through  
25 nomination by respondent and approval by the committee.

26 Respondent shall not practice as a physician assistant until the supervising  
27 physician is approved by the committee.

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1                   7.       NOTIFICATION OF EMPLOYER AND SUPERVISING PHYSICIAN

2 Respondent shall notify his current and any subsequent employer and supervising physician(s) of  
3 his discipline and provide a copy of the Stipulation, Decision, and Order to each such employer  
4 and supervising physician(s) during his period of probation, at the onset of that employment.  
5 Respondent shall ensure that each employer informs the Physician Assistant Committee, or its  
6 agent, in writing within thirty (30) days, verifying that the employer and supervising physician(s)  
7 have been informed of this Stipulation and Order.

8                   8.       FILE MONTHLY PROBATION REPORTS Respondent shall submit  
9 monthly declarations under penalty of perjury on forms provided by the committee or its  
10 designee, stating whether there has been compliance with all the conditions of probation.

11                  9.       OBEY ALL LAWS Respondent shall obey all federal, state, and local  
12 laws, and all rules governing the practice of medicine as a physician assistant in California, and  
13 remain in full compliance with any court ordered criminal probation, payments, and other orders.

14                  10.       QUARTERLY REPORTS Respondent shall submit quarterly  
15 declarations under penalty of perjury on forms provided by the committee or its designee, stating  
16 whether there has been compliance with all the conditions of probation.

17                  11.       PROBATION SURVEILLANCE PROGRAM COMPLIANCE  
18 Respondent shall comply with the committee's probation surveillance program. Respondent  
19 shall, at all times, keep the committee informed of his addresses of business and residence which  
20 shall both serve as addresses of record. Changes of such addresses shall be immediately  
21 communicated in writing to the committee. Under no circumstances shall a post office box serve  
22 as an address of record, except as allowed by California Code of Regulations 1399.523.

23                         Respondent shall, at all times, maintain a current and renewed physician assistant  
24 license.

25                         Respondent shall also immediately inform the committee, in writing, of any travel  
26 to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more  
27 than thirty (30) days.

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12. INTERVIEW WITH MEDICAL CONSULTANT Respondent shall appear in person for interviews with the committee's medical or expert physician assistant consultant upon request at various intervals and with reasonable notice.

13. TOLLING FOR OUT-OF -STATE PRACTICE OR RESIDENCE The period of probation shall not run during the time respondent is residing or practicing outside the jurisdiction of California. If, during probation, respondent moves out of the jurisdiction of California to reside or practice elsewhere, including federal facilities, respondent is required to immediately notify the committee in writing of the date of departure and the date of return, if any.

14. INITIAL PROBATION INTERVIEW Respondent shall appear in person for an initial interview with a designee of the Physician Assistant Committee within 90 days of the final decision. Respondent shall subject himself to an initial interview at a time and place determined by the committee or its designee.

15. UNANNOUNCED CLINICAL SITE VISIT At least once per calendar year, or more frequently as determined by the committee or its designee, unannounced clinical site visits shall be made by the committee or its designee to ensure that respondent is complying with all terms and conditions of probation.

16. COMPLETION OF PROBATION Upon successful completion of probation as determined by the committee's executive officer, respondent's license will be fully restored.

17. VIOLATION OF PROBATION If respondent violates probation in any respect, the committee, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the committee shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

18. COST RECOVERY The respondent is hereby ordered to reimburse the Physician Assistant Committee the amount of \$ 2,823.88 for the costs of investigation and

1 prosecution. The amount shall be paid within one year from the effective date of this decision.  
2 Failure to reimburse the committee's costs for its investigation and prosecution shall constitute a  
3 violation of the probation order, unless the committee agrees in writing to payment by an  
4 installment plan because of financial hardship. The filing of bankruptcy by the respondent shall  
5 not relieve the respondent of his responsibility to reimburse the committee for its costs.

6 19. PROBATION MONITORING COSTS Respondent shall pay the costs  
7 associated with probation monitoring each and every year of probation, as designated by the  
8 Division, but may be adjusted on an annual basis. Such costs shall be payable to the Medical  
9 Board of California and delivered to the Division or its designee no later than January 31 of each  
10 calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of  
11 probation.

12 20. VOLUNTARY LICENSE SURRENDER Following the effective date of  
13 this probation, if respondent ceases practicing due to retirement, health reasons, or is otherwise  
14 unable to satisfy the terms and conditions of probation, respondent may voluntarily tender his  
15 license to the committee. The committee reserves the right to evaluate the respondent's request  
16 and to exercise its discretion whether to grant the request, or to take any other action deemed  
17 appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered  
18 license, respondent will no longer be subject to the terms and conditions of probation.

19 ACCEPTANCE

20 I have carefully read the Stipulated Settlement and Disciplinary Order. I  
21 understand the stipulation and the effect it will have on my Physician Assistant License. I enter  
22 into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,

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24 ///

25 ///

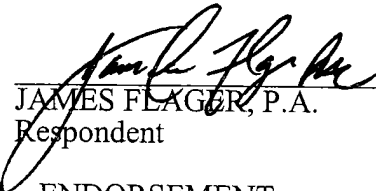
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1 and agree to be bound by the Decision and Order of the Physician Assistant Committee, Medical  
2 Board of California.

3 DATED: 5-12-06

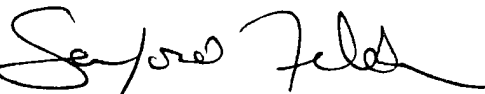
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5  
6   
7 JAMES FLAGER, P.A.  
Respondent

8 ENDORSEMENT

9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
10 submitted for consideration by the Physician Assistant Committee, Medical Board of California  
11 of the Department of Consumer Affairs.

12 DATED: 5/21/06

13 BILL LOCKYER, Attorney General  
14 of the State of California

15 

16 SANFORD H. FELDMAN  
17 Deputy Attorney General

18 Attorneys for Complainant

19 DOJ Matter ID: SD2006800324  
20 80065935.wpd  
21  
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**Exhibit A**

**Accusation No. 1E-2005-170744**

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of the State of California  
SANFORD H. FELDMAN, State Bar No. 47775  
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Attorneys for Complainant

**BEFORE THE  
PHYSICIAN ASSISTANT COMMITTEE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1E-2005-170744

JAMES FLAGER, P.A.  
6315 Vineyard Ave.  
Alta Loma, CA 91701

**A C C U S A T I O N**

Physician Assistant License No. PA 13738

Respondent.

Complainant alleges:

**PARTIES**

1. Richard L. Wallinder, Jr. (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physician Assistant Committee, Department of Consumer Affairs and in no other capacity.

2. On or about January 25, 1996, the Physician Assistant Committee issued Physician Assistant License No. PA 13738 to JAMES FLAGER, P.A. (Respondent). The Physician Assistant License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2007, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Physician Assistant Committee (Committee) for the Medical Board of California, Department of Consumer Affairs, under the authority of the following laws and regulations. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 3527 of the Code provides that the committee may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a physician's assistant certificate for unprofessional conduct.

5. Section 2238 of the Code states:

"A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct."

6. Section 2239 of the Code states:

"(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

"(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The Division of Medical Quality may order discipline of the licensee in accordance with Section 2227 or the Division of Licensing may order the denial of the license when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order

1 granting probation is made suspending imposition of sentence, irrespective of a  
2 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such  
3 person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting  
4 aside the verdict of guilty, or dismissing the accusation, complaint, information, or  
5 indictment."

6 7. California Code of Regulations, title 16, section 1399.521, states:

7 "In addition to the grounds set forth in section 3527, subd. (a), of the code the  
8 committee may deny, issue subject to terms and conditions, suspend, revoke or place on  
9 probation a physician assistant for the following causes:

10 "(a) Any violation of the State Medical Practice Act which would constitute  
11 unprofessional conduct for a physician and surgeon.

12 "(b) Using fraud or deception in passing an examination administered or approved  
13 by the committee.

14 "(c) Practicing as a physician assistant under a physician or other person who has  
15 not received the approval of the board, or the Board of Osteopathic Examiners in the case  
16 of a supervising physician licensed by that board, to supervise a physician assistant.

17 "(d) Practicing as a physician assistant under a physician whose approval to  
18 supervise a physician assistant has been suspended or revoked.

19 "(e) Performing medical tasks which exceed the scope of practice of a physician  
20 assistant as prescribed in these regulations."

21 8. Section 125.3 of the Code states, in pertinent part, that the Board may  
22 request the administrative law judge to direct a licensee found to have committed a violation or  
23 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
24 and enforcement of the case.

25 FIRST CAUSE FOR DISCIPLINE

26 (Self-Administration of Controlled Substance)

27 9. Respondent is subject to disciplinary action under Code sections 3527 and  
28 2239 in that he self-administered controlled substances. The circumstances are set forth below.

1                   10.     In or about 2002, respondent started self-administering Vicodin, which he  
2 obtained by doctor shopping and street purchases.

3                   11.     Respondent continued self-administering and abusing Vicodin until the  
4 end of July 2005.

5                                   SECOND CAUSE FOR DISCIPLINE

6                                   (Violation of State and Federal Drug Laws)

7                   12.     Respondent is further subject to disciplinary action under Code section  
8 3527 and 2238 in that he violated state and federal drug statutes as set forth in paragraphs 9  
9 through 11 above which are incorporated herein by reference as if fully set forth.

10                                   PRAYER

11                   WHEREFORE, Complainant requests that a hearing be held on the matters herein  
12 alleged, and that following the hearing, the Physician Assistant Committee issue a decision:

13                   1.     Revoking or suspending Physician Assistant License No. PA 13738,  
14 issued to JAMES FLAGER, P.A.;

15                   2.     Ordering JAMES FLAGER, P.A. to pay the Physician Assistant  
16 Committee the reasonable costs of the investigation and enforcement of this case, pursuant to  
17 Business and Professions Code section 125.3;

18                   3.     If placed on probation, ordering respondent to pay the costs of probation  
19 monitoring; and,

20                   4.     Taking such other and further action as deemed necessary and proper.

21 DATED: 3/24/06

22                                   Richard L. Wallinder, Jr.  
23                                   by Sybil Fied

24                                   RICHARD L. WALLINDER, JR.  
25                                   Executive Officer  
26                                   Physician Assistant Committee  
27                                   Department of Consumer Affairs  
28                                   State of California  
                                 Complainant